

IC 33-28-4

Chapter 4. Jury Commissioners and Jury Service

IC 33-28-4-1

Applicability of chapter

Sec. 1. (a) This chapter does not apply to a county that chooses under subsection (b) to follow the procedure for jury selection and service set out in IC 33-28-5.

(b) The court administrator or the clerk of the circuit and superior courts of a county may choose to follow the procedure for jury selection and service set out in IC 33-28-5 instead of the procedure set out in this chapter. The court administrator shall serve as the jury commissioner under IC 33-28-5. If the decision to follow IC 33-28-5 is made, all the provisions of IC 33-28-5 must be followed.

As added by P.L.98-2004, SEC.7.

IC 33-28-4-2

Appointment; qualifications; oath or affirmation

Sec. 2. (a) The circuit court shall, during November, appoint for the next calendar year two (2) persons, at least one (1) of whom shall be a resident of the town or city in which the court shall be held, as jury commissioners.

(b) The jury commissioners appointed under subsection (a) must be freeholders and voters of the county, well known to be of opposite politics, and of good character for intelligence, morality, and integrity.

(c) The circuit court shall cause the jury commissioners to appear and take an oath or affirmation in open court, to be entered of record in the order book of the court in the following form: "You do solemnly swear (or affirm) that you will honestly, and without favor or prejudice, perform the duties of jury commissioners during your term of office, that, in selecting persons to be drawn as jurors, you will select none but persons whom you believe to be of good repute for intelligence and honesty, that you will select none whom you have been or may be requested to select, and that, in all of your selections, you will endeavor to promote only the impartial administration of justice.".

(d) After entering the oath required under subsection (c), the court shall instruct the jury commissioners concerning their duties.

As added by P.L.98-2004, SEC.7.

IC 33-28-4-3

Selection of prospective jurors; procedures

Sec. 3. (a) The jury commissioners shall immediately, from the names of legal voters and citizens of the United States on the latest tax duplicate and the tax schedules of the county, examine for the purpose of determining the sex, age, and identity of prospective jurors, and proceed to select and deposit, in a box furnished by the clerk for that purpose, the names, written on separate slips of paper of uniform shape, size, and color, of twice as many persons as will

be required by law for grand and petit jurors in the courts of the county, for all the terms of the courts, to begin with the following calendar year.

(b) Each selection shall be made as nearly as possible in proportion to the population of each county commissioner's district. In making the selections, the jury commissioners shall in all things observe their oaths. The jury commissioners shall not select the name of any person who is to them known to be interested in or has case pending that may be tried by a jury to be drawn from the names so selected.

(c) The jury commissioners shall deliver the locked box to the clerk of the circuit court, after having deposited into the box the names as directed under this section. The key shall be retained by one (1) of the jury commissioners, who may not be an adherent of the same political party as the clerk.

(d) In a county containing a consolidated city, the jury commissioners may, upon an order made by the judge of the circuit court and entered in the records of the circuit court of the county, make the selections and deposits required under this section monthly instead of annually. The jury commissioners may omit the personal examination of prospective jurors, the examination of voters lists, and make selection without reference to county commissioners' districts. The judge of the circuit court in a county containing a consolidated city may do the following:

- (1) Appoint a secretary for the jury commissioners, and sufficient stenographic aid and clerical help to properly perform the duties of the jury commissioners.
- (2) Fix the salaries of the commissioners, the secretary, and stenographic and clerical employees.
- (3) Provide office quarters and necessary supplies for the jury commissioners and their employees.

The expenses incurred under this subsection shall be paid for from the treasury of the county upon the order of the court.

(e) Subject to appropriations made by the county fiscal body, the jury commissioners may use a computerized jury selection system. However, the system used for the selection system must be fair and may not violate the rights of persons with respect to the impartial and random selection of prospective jurors. The jurors selected under the computerized jury selection system must be eligible for selection under this chapter. The commissioners shall deliver the names of the individuals selected to the clerk of the circuit court. The commissioners shall observe their oath in all activities taken under this subsection.

(f) The jury commissioners may supplement voter registration lists and tax schedules under subsection (a) with names from lists of persons residing in the county that the jury commissioners may designate as necessary to obtain a cross-section of the population of each county commissioner's district. The lists designated by the jury commissioners under this subsection must be used for the selection of jurors throughout the entire county.

(g) The supplemental sources designated under subsection (f) may consist of such lists as those of utility customers, persons filing income tax returns, motor vehicle registrations, city directories, telephone directories, and driver's licenses. These supplemental lists may not be substituted for the voter registration list. The jury commissioners may not draw more names from supplemental sources than are drawn from the voter registration lists and tax schedules.

As added by P.L.98-2004, SEC.7.

IC 33-28-4-4

Special venire issuing for jurors

Sec. 4. When a court believes that by reason of numerous challenges in any cause, a special venire should issue for jurors, the court shall direct the clerk to draw from the box described in section 3 of this chapter the number of names considered proper. The persons drawn under this section shall be summoned by virtue of the special venire. If:

- (1) the names in the box are exhausted for any reason; and
- (2) a court of the county cannot be furnished with juries at any term during the calendar year;

the circuit court, or judge of the circuit court in vacation, shall by order require the jury commissioners at a time to be fixed, to deposit in the box the additional number of names as the court or judge shall name in the order. Additional jurors shall be selected under the rules and regulations prescribed in section 3 of this chapter. The box shall then be delivered to the clerk, as provided under section 3 of this chapter, to be drawn by the clerk as may be necessary under section 9 of this chapter.

As added by P.L.98-2004, SEC.7.

IC 33-28-4-5

Jury box and key

Sec. 5. The box described in section 3 of this chapter shall remain in possession of the clerk, securely locked. The only key to the box must remain in the possession of the jury commissioner, of opposite politics from the clerk. The clerk shall be present each time the box is opened, for any purpose under this chapter.

As added by P.L.98-2004, SEC.7.

IC 33-28-4-6

Parties to or persons interested in pending cause barred; failure to discharge duties; contempt; penalty

Sec. 6. (a) A person may not be appointed a jury commissioner if, at the time of the appointment, the person is:

- (1) a party to; or
- (2) interested in;

a case pending in the county that may be tried by a jury to be drawn during the calendar year following the year of the appointment.

(b) A person appointed a jury commissioner, who fails to take the office, or having accepted the office, fails without good cause, to

discharge any of the duties of the office, is guilty of contempt of the court. A person guilty of contempt under this section shall be summarily punished by fine of at least five dollars (\$5) and not more than one hundred dollars (\$100).

As added by P.L.98-2004, SEC.7.

IC 33-28-4-7

Vacancy in office; per diem

Sec. 7. (a) The circuit court shall appoint a person to fill a vacancy, or to act for a jury commissioner, as the case may require, if:

- (1) a vacancy occurs in the office of jury commissioner;
- (2) a jury commissioner fails to act when required; or
- (3) illness or any other cause renders a jury commissioner unable to act.

(b) A person appointed under subsection (a):

- (1) must possess the qualifications required for jury commissioners;
- (2) must be an adherent of the same political party as is the commissioner in whose stead the person is appointed to serve;
- (3) shall take the oath required by this chapter.

(c) For the time actually employed in the performance of jury commissioner's duties, each jury commissioner shall be allowed a per diem to be fixed by the court and paid out of the county treasury upon the warrant of the county auditor.

As added by P.L.98-2004, SEC.7.

IC 33-28-4-8

Restoring right to serve on a jury; right to possess a firearm not restored

Sec. 8. (a) A person shall be excused from acting as a juror if the person:

- (1) is at least sixty-five (65) years of age;
- (2) is a member in active service of the armed forces of the United States;
- (3) is an elected or appointed official of the executive, legislative, or judicial branches of government of:
 - (A) the United States;
 - (B) Indiana; or
 - (C) a unit of local government;

who is actively engaged in the performance of the person's official duties;

- (4) is a member of the general assembly who makes the request to be excused before being sworn as a juror;
- (5) is an honorary military staff officer appointed by the governor under IC 10-16-2-5;
- (6) is an officer or enlisted person of the guard reserve forces authorized by the governor under IC 10-16-8;
- (7) is a veterinarian licensed under IC 15-5-1.1;
- (8) is serving as a member of the board of school

commissioners of the city of Indianapolis under IC 20-3-11-2;
(9) is a dentist licensed under IC 25-14-1;
(10) is a member of a police or fire department or company
under IC 36-8-3 or IC 36-8-12; or
(11) would serve as a juror during a criminal trial and the
person is:

(A) an employee of the department of correction whose
duties require contact with inmates confined in a department
of correction facility; or

(B) the spouse or child of a person described in clause (A);
and desires to be excused for that reason.

(b) A prospective juror is disqualified to serve on a jury if any of
the following conditions exist:

(1) The person is not a citizen of the United States, at least
eighteen (18) years of age, and a resident of the county.

(2) The person is unable to read, speak, and understand the
English language with a degree of proficiency sufficient to fill
out satisfactorily a juror qualification form.

(3) The person is incapable of rendering satisfactory jury
service due to physical or mental disability. However, a person
claiming this disqualification may be required to submit a
physician's or authorized Christian Science practitioner's
certificate confirming the disability, and the certifying
physician or practitioner is then subject to inquiry by the court
at the court's discretion.

(4) The person is under a sentence imposed for an offense.

(5) A guardian has been appointed for the person under IC 29-3
because the person has a mental incapacity.

(6) The person has had rights revoked by reason of a felony
conviction and the rights have not been restored.

(c) A person may not serve as a petit juror in any county if the
person served as a petit juror in the same county within the previous
three hundred sixty-five (365) days. The fact that a person's selection
as a juror would violate this subsection is sufficient cause for
challenge.

(d) A grand jury, a petit jury, or an individual juror drawn for
service in one (1) court may serve in another court of the county, in
accordance with orders entered on the record in each of the courts.

(e) The same petit jurors may be used in civil cases and in
criminal cases.

(f) A person may not be excluded from jury service on account of
race, color, religion, sex, national origin, or economic status.

(g) Notwithstanding IC 35-47-2, IC 35-47-2.5, or the restoration
of the right to serve on a jury under this section and except as
provided in subsections (c), (d), and (l), a person who has been
convicted of a crime of domestic violence (as defined in
IC 35-41-1-6.3) may not possess a firearm:

(1) after the person is no longer under a sentence imposed for
an offense; or

(2) after the person has had the person's rights restored

following a conviction.

(h) Not earlier than five (5) years after the date of conviction, a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may petition the court for restoration of the person's right to possess a firearm. In determining whether to restore the person's right to possess a firearm, the court shall consider the following factors:

- (1) Whether the person has been subject to:
 - (A) a protective order;
 - (B) a no contact order;
 - (C) a workplace violence restraining order; or
 - (D) any other court order that prohibits the person from possessing a firearm.
- (2) Whether the person has successfully completed a substance abuse program, if applicable.
- (3) Whether the person has successfully completed a parenting class, if applicable.
- (4) Whether the person still presents a threat to the victim of the crime.
- (5) Whether there is any other reason why the person should not possess a firearm, including whether the person failed to complete a specified condition under subsection (i) or whether the person has committed a subsequent offense.

(i) The court may condition the restoration of a person's right to possess a firearm upon the person's completion of specified conditions.

(j) If the court denies a petition for restoration of the right to possess a firearm, the person may not file a second or subsequent petition until one (1) year has elapsed.

(k) A person has not been convicted of a crime of domestic violence for purposes of subsection (h) if the conviction has been expunged or if the person has been pardoned.

(l) The right to possess a firearm shall be restored to a person whose conviction is reversed on appeal or on post-conviction review at the earlier of the following:

- (1) At the time the prosecuting attorney states on the record that the charges that gave rise to the conviction will not be refiled.
- (2) Ninety (90) days after the final disposition of the appeal or the post-conviction proceeding.

As added by P.L.98-2004, SEC.7.

IC 33-28-4-9

Drawing of jurors

Sec. 9. (a) During the month of December, and at other times the judge considers necessary, the judge of any court of record in which jury trials are had shall by written order direct the clerk of the circuit court to draw grand jurors or petit jurors from the names selected by the jury commissioners. The names shall be drawn by the clerk in the presence of the jury commissioners, in a number equal to the number of jurors to be summoned according to the judge's orders. The names

of jurors for each court having criminal jurisdiction shall be drawn first.

(b) At the time of the drawing, the clerk shall enter in the order book of the court a list of the names drawn, in the order in which they were drawn. The clerk shall attach the clerk's certificate to attest to the accuracy of the list. The clerk shall issue venires for the jurors as the courts direct. However, the jurors called to service shall be identified long enough before the trial or grand jury session to permit counsel to study their backgrounds.

(c) Notice to or summons of persons for jury duty shall be served by the clerk of the circuit court upon order of the court.

(d) The sheriff or bailiff shall call the jurors to the jury box in the same order in which their names were drawn. Jurors shall serve for three (3) months, or for a shorter period if a shorter period is specified in the judge's written order.

(e) This section shall be construed to supplement IC 34-36-2, and IC 34-36-3-5 through IC 34-36-3-7, and other statutory provisions for special juries, for juries by agreement, for juries from other counties, for struck juries, and for special venires. This section shall be construed liberally, to the effect that no indictment shall be quashed, and no trial, judgment, order, or proceeding shall be reversed or held invalid on the ground that the terms of this section have not been followed, unless it appears that the noncompliance was either in bad faith or was objected to promptly upon discovery and was probably harmful to the substantial rights of the objecting party.

As added by P.L.98-2004, SEC.7.